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<p>TITLE 5, UNITED STATES CODE Government Organization and Employees</p> <hr/> <p>PREPARED BY THE COMMITTEE ON POST OFFICE AND CIVIL SERVICE UNITED STATES SENATE</p> <p></p> <p>JANUARY 31, 1970</p> <p>Printed for the use of the Committee on Post Office and Civil Service</p> <hr/> <p>U.S. GOVERNMENT PRINTING OFFICE WASHINGTON : 1970</p> <p>49-311</p>	

§ 3581. Regulations

The President may prescribe regulations necessary to carry out this subchapter and section 3313 of this title and to protect and assure the retirement, insurance, leave, and reemployment rights and such other similar civil service employment rights as he finds appropriate. The regulations may provide for the exclusion of employees from the application of this subchapter and section 3313 of this title on the basis of the nature and type of employment including excepted appointments of a confidential or policy-determining character, or conditions pertaining to the employment including short-term appointments, seasonal or intermittent employment, and part-time employment. (Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 431.)

Subpart C—Employee Performance**CHAPTER 41—TRAINING****Sec.**

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§ 4101. Definitions

For the purpose of this chapter—

- (1) "agency", subject to section 4102 of this title, means—
 - (A) an Executive department;
 - (B) an independent establishment;
 - (C) a Government corporation subject to sections 846-852 or 856-859 of title 31;
 - (D) the Library of Congress;
 - (E) the Government Printing Office; and
 - (F) the government of the District of Columbia;
- (2) "employee", subject to section 4102 of this title, means—
 - (A) an individual employed in or under an agency; and
 - (B) a commissioned officer of the Environmental Science Services Administration;
- (3) "Government" means the Government of the United States and the government of the District of Columbia;
- (4) "training" means the process of providing for and making available to an employee, and placing or enrolling the employee in,

a planned, prepared, and coordinated program, course, curriculum, subject, system, or routine of instruction or education, in scientific, professional, technical, mechanical, trade, clerical, fiscal, administrative, or other fields which are or will be directly related to the performance by the employee of official duties for the Government, in order to increase the knowledge, proficiency, ability, skill, and qualifications of the employee in the performance of official duties;

(5) "Government facility" means property owned or substantially controlled by the Government and the services of any civilian and military personnel of the Government; and

(6) "non-Government facility" means—

(A) the government of a State or of a territory or possession of the United States including the Commonwealth of Puerto Rico, and an interstate governmental organization, or a unit, subdivision, or instrumentality of any of the foregoing;

(B) a foreign government or international organization, or instrumentality of either, which is designated by the President as eligible to provide training under this chapter;

(C) a medical, scientific, technical, educational, research, or professional institution, foundation, or organization;

(D) a business, commercial, or industrial firm, corporation, partnership, proprietorship, or other organization;

(E) individuals other than civilian or military personnel of the Government; and

(F) the services and property of any of the foregoing furnishing the training.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 432, amended Pub. L. 90-203, title II, § 221(a), Dec. 16, 1967, 81 Stat. 642.)

§ 4102. Exceptions; Presidential authority

(a) (1) This chapter does not apply to—

(A) a corporation supervised by the Farm Credit Administration if private interests elect or appoint a member of the board of directors;

(B) the Tennessee Valley Authority; or

(C) an individual (except a commissioned officer of the Environmental Science Services Administration) who is a member of a uniformed service during a period in which he is entitled to pay under section 204 of title 37.

(2) This chapter (except sections 4110 and 4111) does not apply to—

(A) the Foreign Service of the United States; or

(B) an individual appointed by the President (except a Postmaster), unless the individual is specifically designated by the President for training under this chapter.

(b) The President, at any time in the public interest, may—

(1) except an agency or part thereof, or an employee or group or class of employees therein, from this chapter or a provision thereof (except this section); and

(2) withdraw an exception made under this subsection. However, the President may not except the Civil Service Commission from a provision of this chapter which vests in or imposes on the Commission a function, duty, or responsibility concerning any matter except the establishment, operation, and maintenance, in the same capacity as other agencies, of training programs and plans for its employees. (Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 433, amended Pub. L. 90-83, § 1(4), Sept. 11, 1967, 81 Stat. 196.)

§ 4103. Establishment of training programs

In order to increase economy and efficiency in the operations of the agency and to raise the standards of performance by employees of their official duties to the maximum possible level of proficiency, the head of each agency, in conformity with this chapter, shall establish, operate, and maintain a program or programs, and a plan or plans thereunder, for the training of employees in or under the agency by, in, and through Government facilities and non-Government facilities. Each program, and plan thereunder, shall—

(1) conform to the principles, standards, and related requirements contained in the regulations prescribed under section 4118 of this title;

(2) provide for adequate administrative control by appropriate authority; and

(3) provide for the encouragement of self-training by employees by means of appropriate recognition of resultant increases in proficiency, skill, and capacity.

Two or more agencies jointly may operate under a training program. (Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 433.)

§ 4104. Government facilities; use of

An agency program for the training of employees by, in, and through Government facilities under this chapter shall—

(1) provide for training, insofar as practicable, by, in, and through Government facilities under the jurisdiction or control of the agency; and

(2) provide for the making by the agency, to the extent necessary and appropriate, of agreements with other agencies in any branch of the Government, on a reimbursable basis when requested by the other agencies, for—

(A) use of Government facilities under the jurisdiction or control of the other agencies in any branch of the Government; and

(B) extension to employees of the agency of training programs of other agencies.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 434.)

§ 4105. Non-Government facilities; use of

(a) The head of an agency, without regard to section 5 of title 41, may make agreements or other arrangements for the training of employees of the agency by, in, or through non-Government facilities under this chapter.

(b) An agency program for the training of employees by, in, and through non-Government facilities under this chapter shall—

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(1) provide that information concerning the selection and assignment of employees for training and the applicable training limitations and restrictions be made available to employees of the agency; and

(2) give consideration to the needs and requirements of the agency in recruiting and retaining scientific, professional, technical, and administrative employees.

(c) In order to protect the Government concerning payment and reimbursement of training expenses, each agency shall prescribe such regulations as it considers necessary to implement the regulations prescribed under section 4118(a) (3) of this title. (Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 434.)

§ 4106. Non-Government facilities; amount of training limited

(a) The training of employees by, in, and through non-Government facilities under this chapter is subject to the following limitations:

(1) The number of man-years of training for an agency in a fiscal year may not exceed 1 percent of the total number of man-years of civilian employment for the agency in the same fiscal year as disclosed by the agency budget estimates for the year.

(2) An employee having less than 1 year of current, continuous civilian service is not eligible for training unless the head of his agency determines, under regulations prescribed under section 4118 of this title, that training for the employee is in the public interest.

(3) The time spent by an employee in training may not exceed 1 year in the first 10-year period and in each subsequent 10-year period of his continuous or non-continuous civilian service in the Government.

The Civil Service Commission may prescribe other limitations, in accordance with the provisions and purposes of this chapter, concerning the time which may be spent by an employee in training.

(b) On recommendation of the head of an agency, the Commission may waive, with respect to that agency or part thereof or one or more employees therein, all or any of the limitations covered by subsection (a) of this section, if the Commission determines that the application of all or any of the limitations thereto is contrary to the public interest. The Commission, in the public interest, may reimpose all or any of the limitations so waived. (Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 434.)

§ 4107. Non-Government facilities; restrictions

(a) Appropriations or other funds available to an agency are not available for payment for training an employee—

(1) by, in, or through a non-Government facility which teaches or advocates the overthrow of the Government of the United States by force or violence; or

(2) by or through an individual concerning whom determination has been made by a proper Government administrative or investigatory authority that, on the basis of information or evidence developed in investigations and procedures authorized by

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Executive order, there exists a reasonable doubt of his loyalty to the United States.

This chapter does not authorize training an employee by, in, or through a non-Government facility a substantial part of the activities of which consist of—

- (1) carrying on propaganda, or otherwise attempting, to influence legislation; or
- (2) participating or intervening, including publishing or distributing statements, in a political campaign on behalf of a candidate for public office.

This chapter does not authorize the selection and assignment of an employee for training by, in, or through a non-Government facility, or payment or reimbursement of the costs of training, for—

- (1) the purpose of providing an opportunity to an employee to obtain an academic degree in order to qualify for appointment to a particular position for which the academic degree is a basic requirement; or
- (2) the sole purpose of providing an opportunity to an employee to obtain one or more academic degrees.

(9-554, Sept. 6, 1966, 80 Stat. 435.)

Employee agreements; service after training

An employee selected for training by, in, or through a non-Government facility under this chapter shall agree in writing with the head of the agency that he will—

- (1) continue in the service of his agency after the end of the training period for a period at least equal to three times the length of the training period unless he is involuntarily separated from the service of his agency; and
- (2) pay to the Government the amount of the additional expenses incurred by the Government in connection with his training if he is voluntarily separated from the service of his agency at the end of the period for which he has agreed to continue in the service of his agency.

The payment agreed to under subsection (a) (2) of this section shall be required of an employee who leaves the service of his agency to enter into the service of another agency in any branch of the Government unless the head of the agency that authorized the training notifies the employee before the effective date of his entrance into the service of the other agency that payment will be required under this section.

An employee, except an employee relieved of liability under subsection (b) of this section or section 4102(b) of this title, who fails to agree to pay to the Government the additional expenses incurred by the Government in connection with his training, a sum equal to the amount of the additional expenses of training is recoverable from the Government from the employee or his estate by—

- (1) setoff against accrued pay, compensation, amount of retirement credit, or other amount due the employee from the Government; and

(2) such other method as is provided by law for the recovery of amounts owing to the Government.

The head of the agency concerned, under the regulations prescribed under section 4118 of this title, may waive in whole or in part a right of recovery under this subsection, if it is shown that the recovery would be against equity and good conscience or against the public interest. (Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 435.)

§ 4109. Expenses of training

(a) The head of an agency, under the regulations prescribed under section 4118(a) (8) of this title and from appropriations or other funds available to the agency, may—

(1) pay all or a part of the pay (except overtime, holiday, or night differential pay) of an employee of the agency selected and assigned for training under this chapter, for the period of training; and

(2) pay, or reimburse the employee for, all or a part of the necessary expenses of the training, without regard to section 529 of title 31, including among the expenses the necessary costs of—

(A) travel and per diem instead of subsistence under subchapter I of chapter 57 of this title or, in the case of commissioned officers of the Environmental Science Services Administration, sections 404 and 405 of title 37, and the Joint Travel Regulations for the Uniformed Services;

(B) transportation of immediate family, household goods and personal effects, packing, crating, temporarily storing, draying, and unpacking under section 5721 of this title or, in the case of commissioned officers of the Environmental Science Services Administration, sections 406 and 409 of title 37, and the Joint Travel Regulations for the Uniformed Services, when the estimated costs of transportation and related services are less than the estimated aggregate per diem payments for the period of training;

(C) tuition and matriculation fees;

(D) library and laboratory services;

(E) purchase or rental of books, materials, and supplies;

and

(F) other services or facilities directly related to the training of the employee.

(b) The expenses of training do not include membership fees except to the extent that the fee is a necessary cost directly related to the training itself or that payment of the fee is a condition precedent to undergoing the training. (Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 436, amended Pub. L. 90-83, § 1(4), Sept. 11, 1967, 81 Stat. 196.)

§ 4110. Expenses of attendance at meetings

Appropriations available to an agency for travel expenses are available for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of the functions or activities. (Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 436.)

§ 4111. Acceptance of contributions, awards, and other payments

(a) To the extent authorized by regulation of the President, contributions and awards incident to training in non-Government facilities, and payment of travel, subsistence, and other expenses incident to attendance at meetings, may be made to and accepted by an employee, without regard to section 209 of title 18, if the contributions, awards, and payments are made by an organization determined by the Secretary of the Treasury to be an organization described by section 501(c)(3) of title 26 which is exempt from taxation under section 501(a) of title 26.

(b) When a contribution, award, or payment, in cash or in kind, is made to an employee for travel, subsistence, or other expenses under subsection (a) of this section, an appropriate reduction, under regulations of the Director of the Bureau of the Budget, shall be made from payment by the Government to the employee for travel, subsistence, or other expenses incident to training in a non-Government facility or to attendance at a meeting. (Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 437.)

§ 4112. Absorption of costs within funds available

(a) The Director of the Bureau of the Budget, to the extent he considers practicable, shall provide by regulation for the absorption of the costs of the training programs and plans under this chapter by the respective agencies from applicable appropriations or funds available for each fiscal year.

(b) Subsection (a) of this section may not be held or considered to require—

(1) the separation of an individual from the service by reduction in force or other personnel action; or

(2) the placement of an individual in a leave without-pay status.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 437.)

§ 4113. Agency review of training needs; annual program reports

(a) The head of each agency, at least once every 3 years, shall review the needs and requirements of the agency for the training of employees under its jurisdiction. The Civil Service Commission, on request of an agency, may assist the agency with the review. Information obtained or developed in a review shall be made available to the Commission at its request.

(b) Each agency shall report annually to the Commission, at such times and in such form as the Commission prescribes, on its programs and plans for the training of employees under this chapter. The report shall set forth—

(1) such information concerning the expenditures of the agency in connection with training as the Commission considers appropriate;

(2) the name of each employee of the agency, except a student participating in a cooperative education program, who, during the period covered by the report, received training by, in, or through a non-Government facility for more than 120 days; the

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grade, title, and primary duties of the position held by the employee; the name of the non-Government facility from which the training was received; the nature, length, and cost of the training to the Government; and the relationship of the training to official duties;

(3) the name of each employee of the agency who received a contribution or award under section 4111(a) of this title during the period covered by the report;

(4) a statement concerning the value of the training to the agency;

(5) estimates of the extent to which economies and improved operations have resulted from the training; and

(6) such other information as the agency or the Commission considers appropriate.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 437.)

§ 4114. Non-Government facilities; review of training programs

The Civil Service Commission, at the times and to the extent it considers necessary, shall review the operations, activities, and related transactions of each agency in connection with each agency program, and plan thereunder, for the training of its employees by, in, and through non-Government facilities under this chapter in order to determine whether the operations, activities, and related transactions comply with the programs and plans, the provisions and purposes of this chapter, and the principles, standards, and related requirements contained in the regulations prescribed under section 4113 of this title. Each agency, on request of the Commission, shall cooperate and assist in the review. If the Commission finds that noncompliance exists in an agency, the Commission, after consultation with the agency, shall certify to the head of the agency its recommendations for change of actions and procedures. If, after a reasonable time for placing its recommendations in effect, the Commission finds that noncompliance continues to exist in the agency, the Commission shall report the finding to the President for such action as he considers appropriate. (Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 438.)

§ 4115. Collection of training information

The Civil Service Commission, to the extent it considers appropriate in the public interest, may collect information concerning training programs, plans, and the methods inside and outside the Government. The Commission, on request, may make the information available to an agency and to Congress. (Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 438.)

§ 4116. Training program assistance

The Civil Service Commission, on request of an agency, shall advise and assist in the establishment, operation, and maintenance of the training programs and plans of the agency under this chapter, to the extent of its facilities and personnel available for that purpose. (Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 438.)

§ 4117. Administration

The Civil Service Commission has the responsibility and authority for effective promotion and coordination of the training programs under this chapter and training operations thereunder. The functions, duties, and responsibilities of the Commission under this chapter are subject to supervision and control by the President and review by Congress. (Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 438.)

§ 4118. Regulations

(a) The Civil Service Commission, after considering the needs and requirements of each agency for training its employees and after consulting with the agencies principally concerned, shall prescribe regulations containing the principles, standards, and related requirements for the programs, and plans thereunder, for the training of employees under this chapter, including requirements for coordination of and reasonable uniformity in the agency training programs and plans. The regulations shall provide for the maintenance of necessary information concerning the general conduct of the training activities of each agency, and such other information as is necessary to enable the President and Congress to discharge effectively their respective duties and responsibilities for supervision, control, and review of these training programs. The regulations also shall cover—

(1) requirements concerning the determination and continuing review by each agency of its training needs and requirements;

(2) the scope and conduct of the agency training programs and plans;

(3) the selection and assignment of employees of each agency for training;

(4) the use in each agency of the services of employees who have undergone training;

(5) the evaluation of the results and effects of the training programs and plans;

(6) the interchange of training information among the agencies;

(7) the submission of reports by the agencies on results and effects of training programs and plans and economies resulting therefrom, including estimates of costs of training by, in, and through non-Government facilities;

(8) requirements and limitations necessary with respect to payments and reimbursements in accordance with section 4109 of this title; and

(9) other matters considered appropriate or necessary by the Commission to carry out the provisions of this chapter.

(b) In addition to the matters set forth by subsection (a) of this section, the regulations, concerning training of employees by, in, or through non-Government facilities, shall—

(1) prescribe general policies governing the selection of a non-Government facility to provide training;

(2) authorize training of employees only after the head of the agency concerned determines that adequate training for em-

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employees by, in, or through a Government facility is not reasonably available, and that consideration has been given to the existing or reasonably foreseeable availability and use of fully trained employees; and

(3) prohibit training an employee for the purpose of filling a position by promotion if there is in the agency concerned another employee, of equal ability and suitability, fully qualified to fill the position and available at, or within a reasonable distance from, the place where the duties of the position are to be performed.

(c) The Commission, in accordance with this chapter, may revise, supplement, or abolish regulations prescribed under this section, and prescribe additional regulations.

(d) This section does not authorize the Commission to prescribe the types and methods of intra-agency training or to regulate the details of intra-agency training programs. (Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 438.)

CHAPTER 43—PERFORMANCE RATING

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§ 4301. Definitions

For the purpose of this chapter—

(1) "agency" means—

- (A) an Executive agency;
 - (B) the Administrative Office of the United States
- Courts;
- (C) the Library of Congress;
 - (D) the Botanic Garden;
 - (E) the Government Printing Office; and
 - (F) the government of the District of Columbia;

but does not include—

- (i) the Tennessee Valley Authority;
- (ii) the postal field service;
- (iii) the Foreign Service of the United States;
- (iv) the Atomic Energy Commission;
- (v) the Central Intelligence Agency;
- (vi) the National Security Agency; or
- (vii) a Government controlled corporation; and

(2) "employee" means an individual employed in or under an agency, but does not include—

- (A) a physician, dentist, nurse, or other employee in the Department of Medicine and Surgery, Veterans' Administration, whose pay is fixed under chapter 73 of title 38;